

1 CAROL J. JENNINGS  
cjennings@ftc.gov  
2 MALINI MITHAL  
mmithal1@ftc.gov  
3 ROBERT S. KAYE  
rkaye@ftc.gov  
4 Federal Trade Commission  
601 New Jersey Avenue, NW, Rm. 2122  
5 Washington, DC 20001  
(202) 326-3010, 2972, 2215 (voice)  
6 (202) 326-2558 (fax)

7 Local Counsel  
BARBARA CHUN  
8 bchun@ftc.gov  
CA Bar No. 186907  
9 Federal Trade Commission  
10877 Wilshire Boulevard, Suite 700  
10 Los Angeles, CA 90024  
(310) 824-4312 (voice)  
11 (310) 824-4380 (fax)

12 ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION  
13  
14

15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA

17 FEDERAL TRADE COMMISSION,

18 Plaintiff,

19 v.

20 SAGEE U.S.A. GROUP, INC.,  
a California Corporation;  
21 SAGEE U.S.A. GROUP, INC.,  
a Nevada Corporation;  
22 XIAO HUA LI, individually and  
as an officer of Sagee U.S.A. Group, Inc.,  
23 a California Corporation;

24 Defendants.  
25  
26  
27  
28

CV 04-10560-GPS (CWx)

**MODIFIED STIPULATED  
FINAL JUDGMENT AND  
ORDER FOR  
PERMANENT  
INJUNCTION AND  
MONETARY RELIEF**

1 Plaintiff, the Federal Trade Commission ("Commission" or "FTC") has filed  
2 a Noticed, *Ex Parte* Application for a Temporary Restraining Order and Orders to  
3 Show Cause Why a Preliminary Injunction Should Not Issue and Why Defendants  
4 Should Not Be Held in Contempt ("Application for Orders to Show Cause") for  
5 violating the Stipulated Final Judgment and Order for Permanent Injunction and  
6 Monetary Relief entered by this Court on January 14, 2005 ("Stipulated Final  
7 Judgment"). The Stipulated Final Judgment resolved the Commission's  
8 Complaint for Permanent Injunction and Other Equitable Relief ("Complaint")  
9 against Defendants.

10 The Commission and Defendants have stipulated to the entry of this  
11 Modified Stipulated Final Judgment and Order for Permanent Injunction and  
12 Monetary Relief ("Modified Order") in settlement of the Commission's  
13 Application for Orders to Show Cause. The Court, being advised in the premises,  
14 finds:

### 15 **FINDINGS**

- 16 1. This Court has jurisdiction over the subject matter of this case and  
17 jurisdiction over all parties.
- 18 2. Venue in the Central District of California is proper.
- 19 3. The Complaint states a claim upon which relief can be granted, and the  
20 Commission has the authority to seek the relief it has requested.
- 21 4. The acts and practices of Defendants were and are in or affecting commerce,  
22 as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
- 23 5. Defendants agree to this Modified Order without any finding by the Court  
24 on the proposed contempt action.
- 25 6. Defendants waive all rights to seek judicial review or otherwise challenge or  
26

1 contest the validity of this Modified Order. Defendants also waive any  
2 claim that they may have held under the Equal Access to Justice Act, 28  
3 U.S.C. § 2412, concerning the prosecution of this action to the date of this  
4 Modified Order.

5 7. Each party shall bear its own costs and attorneys' fees.

6 8. Entry of this Modified Order is in the public interest.

7 9. This Modified Order resolves only claims against the named Defendants  
8 and does not preclude the Commission from initiating further action or  
9 seeking any remedy against any other persons or entities, including but not  
10 limited to persons or entities who may be subject to portions of this  
11 Modified Order by virtue of actions taken in concert or participation with  
12 Defendants, and persons or entities in any type of indemnification or  
13 contractual relationship with Defendants.

#### 14 15 **DEFINITIONS**

16 For purposes of this Modified Order, the following definitions shall apply:

17 1. "Commerce" means "commerce" as defined in Section 4 of the FTC Act, 15  
18 U.S.C. § 44.

19 2. "Competent and reliable scientific evidence" means tests, analyses,  
20 research, studies, or other evidence based on the expertise of professionals  
21 in the relevant area, that has been conducted and evaluated in an objective  
22 manner by persons qualified to do so, using procedures generally accepted  
23 in the profession to yield accurate and reliable results.

24 3. "Covered product" means any dietary supplement, food, drug, device, or  
25 service.

1 4. "Defendants" means:

- 2 a. Sagee U.S.A. Group, Inc., a California Corporation ("Sagee"), its  
3 divisions and subsidiaries, its successors and assigns; and  
4 b. Xiao Hua Li, individually and in his capacity as an officer of Sagee.

5 5. "Distributor" means any purchaser or other transferee of any covered  
6 product who acquires such product from any Defendant for resale, with or  
7 without valuable consideration, or any person or entity that offers or sells,  
8 or has offered or sold such product to other sellers or to consumers,  
9 including but not limited to individuals, retail stores, or catalogs.

10 6. ✓ "Endorsement" shall have the same definition as in 16 C.F.R. § 255.0(b).

11 7. ✓ "Food" and "drug" mean as "food" and "drug" are defined in Section 15 of  
12 the FTC Act, 15 U.S.C. § 55.

13 8. "Including" in this Modified Order means "without limitation."

14 9. "Monitor distributors' advertising and promotional activities" means  
15 develop and follow written procedures that are reasonably designed to  
16 ensure distributors' compliance with this Modified Order. Such procedures  
17 include but are not limited to the regular review of all advertising and  
18 promotional activities of all distributors.

19 9. The terms "and" and "or" in this Modified Order shall be construed  
20 conjunctively or disjunctively as necessary, to make the applicable phrase or  
21 sentence inclusive rather than exclusive.

22  
23 **ORDER**

24 **I. EFFECT ON STIPULATED FINAL JUDGMENT**

25 IT IS ORDERED that the Stipulated Final Judgment is hereby superceded  
26 by this Modified Order.

1 **II. BAN ON DISEASE CLAIMS**

2 IT IS FURTHER ORDERED that Defendants, directly or through any  
3 corporation, subsidiary, division, trade name, or other device, are hereby  
4 permanently restrained and enjoined from making any representation, expressly or  
5 by implication, including but not limited to through the use of endorsements, that a  
6 covered product can prevent, mitigate, treat, or cure any disease. Nothing in this  
7 Modified Order shall be read as an exception to this Section.  
8

9 **III. PROHIBITED UNSUBSTANTIATED CLAIMS**

10 IT IS FURTHER ORDERED that Defendants, directly or through any  
11 corporation, subsidiary, division, trade name, or other device, and their officers,  
12 agents, servants, representatives, employees, and all persons or entities in active  
13 concert or participation with them who receive actual notice of this Modified  
14 Order, by personal service or otherwise, in connection with the manufacturing,  
15 labeling, advertising, promotion, offering for sale, sale, or distribution of any  
16 covered product, are hereby permanently restrained and enjoined from making any  
17 representation, in any manner, expressly or by implication, including through the  
18 use of endorsements, about the health benefits, performance, or efficacy of such  
19 product, unless, at the time the representation is made, Defendants possess and  
20 rely upon competent and reliable scientific evidence that substantiates the  
21 representation.  
22

23 **IV. PROHIBITED CLINICAL STUDIES CLAIMS**

24 IT IS FURTHER ORDERED that Defendants, directly or through any  
25 corporation, subsidiary, division, trade name, or other device, and their officers,  
26 agents, servants, representatives, employees, and all persons or entities in active  
27  
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1 concert or participation with them who receive actual notice of this Modified  
2 Order, by personal service or otherwise, in connection with the manufacturing,  
3 labeling, advertising, promotion, offering for sale, sale, or distribution of any  
4 covered product, are hereby permanently restrained and enjoined from  
5 misrepresenting, in any manner, expressly or by implication, including through the  
6 use of endorsements, the existence, contents, validity, results, conclusions, or  
7 interpretations of any test, study, or research.

8  
9 **V. MONETARY JUDGMENT AND CONSUMER REDRESS**

10 IT IS FURTHER ORDERED that:

11 A. Judgment is hereby entered against Defendants, jointly and severally,  
12 in the amount of ONE MILLION THREE HUNDRED EIGHTY-  
13 THREE THOUSAND FOUR HUNDRED TWENTY THREE  
14 DOLLARS (\$1,383,423.00), less the TEN THOUSAND DOLLARS  
15 (\$10,000.00) Defendants paid the Commission in 2005 by wire *MM*  
16 transfer after entry of the Stipulated Final Judgment; provided,  
17 however, that this judgment is suspended as long as the Court makes  
18 no finding, as provided in Section VI of this Modified Order, that any  
19 Defendant materially misrepresented or omitted the nature, existence,  
20 or value of any asset.

21 B. In addition, Defendants are ordered to pay TEN THOUSAND *MM*  
22 THREE HUNDRED NINETY SIX DOLLARS (\$10,396.00), which *MM*  
23 payment must be made to the Commission, within five (5) days of  
24 entry of this Modified Order, pursuant to instructions provided by the  
25 Commission. Defendants have represented in a sworn statement  
26 dated July 10, 2006 that this amount is the total amount of revenues,  
27 *MM*

1 including shipping and handling fees, derived from their sale of Dia-  
2 Cope, worldwide ("total Dia-Cope revenue"). If the Commission  
3 demonstrates to the Court that the sworn statement does not  
4 accurately account for their total Dia-Cope revenue, Defendants shall  
5 pay the Commission an amount reflecting any additional Dia-Cope  
6 revenue.

7 C. All funds paid pursuant to Sections V and VI shall be deposited into a  
8 fund administered by the Commission or its agent to be used for  
9 equitable relief, including but not limited to consumer redress and any  
10 attendant expenses for the administration of any redress fund. In the  
11 event that direct redress to consumers is wholly or partially  
12 impracticable or funds remain after redress is completed, the  
13 Commission may apply any remaining funds for such other equitable  
14 relief (including consumer information remedies) as it determines to  
15 be reasonably related to Defendants' practices alleged in the  
16 complaint. Any funds not used for such equitable relief shall be  
17 deposited to the United States Treasury as equitable disgorgement.  
18 Defendants shall have no right to challenge the Commission's choice  
19 of remedies or the manner of distribution.

20 D. Defendants acknowledge and agree that all money paid pursuant to  
21 this Modified Order is irrevocably paid to the Commission for  
22 purposes of settlement between the parties, and Defendants relinquish  
23 all rights, title, and interest to such money. Defendants shall make no  
24 claim or demand for return of the funds, directly or indirectly, through  
25 counsel or otherwise, and in the event of bankruptcy of any  
26 Defendant, such Defendant acknowledges that the funds are not part  
27  
28

1 of the debtor's estate, nor does the estate have any claim or interest  
2 therein.

3 E. Defendants are hereby required, in accordance with 31 U.S.C. § 7701,  
4 to furnish to the Commission their respective taxpayer identifying  
5 numbers (social security numbers or employer identification  
6 numbers), which will be used for purposes of collecting and reporting  
7 on any delinquent amount arising out of such Defendant's  
8 relationship with the government.

9 F. Defendants waive any right to contest any of the allegations in the  
10 Complaint or Application for Orders to Show Cause in any  
11 subsequent litigation to collect amounts due pursuant to this Modified  
12 Order, including but not limited to a nondischargeability complaint in  
13 any bankruptcy proceeding.

14 G. The judgment entered pursuant to this Section is equitable monetary  
15 relief, solely remedial in nature, and not a fine, penalty, punitive  
16 assessment, or forfeiture.

17  
18 **VI. RIGHT TO REOPEN**

19 IT IS FURTHER ORDERED that:

20 A. The Commission's agreement to this Modified Order is expressly  
21 premised on the truthfulness, accuracy, and completeness of the  
22 sworn statements Defendants submitted to the Commission after entry  
23 of the Stipulated Final Judgment reaffirming the truthfulness,  
24 accuracy, and completeness of the financial statements Defendants  
25 provided to the FTC on approximately January 20, 2004; March 20,  
26 2004; July 1, 2004; and August 6, 2004. If, upon motion by the  
27



Commission, the Court finds that such financial statements contain any material misrepresentation or omission, the suspended judgment entered in Paragraph A of Section V of this Modified Order shall become immediately due and payable, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance; provided, however, that in all other respects this Modified Order shall remain in full force and effect unless otherwise ordered by the Court.

- B. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including but not limited to contempt proceedings or any other proceedings that the Commission or the United States may initiate to enforce this Modified Order. For purposes of this Section, Defendants waive any right to contest any of the allegations in the Complaint or Application for Orders to Show Cause.

## **VII. MONITORING DISTRIBUTORS**

IT IS FURTHER ORDERED that:

- A. Defendants shall not disseminate to any distributor any advertisement containing any representations prohibited by this Modified Order.
- B. Defendants shall not, directly or indirectly, authorize or encourage any distributor to make any representations prohibited under this Modified Order.
- C. Within thirty (30) days after the date of entry of this Modified Order, Defendant Sagee shall send by first class mail, postage prepaid, a copy of the notice attached hereto as Attachment A to each

1 distributor, to the extent that such distributor is known to said  
2 Defendant through a diligent search of its records, including but not  
3 limited to computer files, sales records, and inventory lists. The  
4 mailing shall not include any other documents. The costs of this  
5 mailing shall be borne by Defendants. Within five (5) days after the  
6 date this mailing is completed, Defendant Sagee shall provide to the  
7 Commission a list of all persons to whom Attachment A was sent,  
8 together with the addresses to which it was mailed.

9 D. For a period of one (1) year following the date of entry of this  
10 Modified Order, Defendant Sagee shall send by first class mail,  
11 postage prepaid, a copy of the notice attached hereto as Attachment A  
12 to each distributor with whom said Defendant begins doing business  
13 after the date of entry of this Modified Order. Said Defendant shall  
14 send such notice prior to any sale or distribution of any covered  
15 product to said distributor. The mailing shall not include any other  
16 documents. The costs of this mailing shall be borne by Defendants.

17 E. Defendant Sagee shall secure from each distributor to whom a notice  
18 is sent pursuant to Paragraphs C or D a signed and dated statement  
19 acknowledging receipt of such and, as to any distributor who has not  
20 provided such a statement, shall not sell or distribute any covered  
21 product to any such distributor, or accept any orders for any covered  
22 product submitted by or on behalf of any such distributor. A form  
23 acknowledgment may be included in the mailings described in  
24 Paragraphs C and D.

25 F. Defendant Sagee shall monitor distributors' advertising and  
26 promotional activities, including representations made verbally or  
27

1 through electronic communications. In the event that Defendant  
2 Sagee receives any information that, subsequent to receipt of  
3 Attachment A pursuant to Paragraphs C or D, any distributor is using  
4 or disseminating any advertisement or promotional material or  
5 making any verbal statement that contains any representation  
6 prohibited by this Modified Order, Defendant Sagee shall  
7 immediately terminate said distributor's right to market Defendants'  
8 products and shall immediately notify the Commission, by certified  
9 mail, of all relevant information, including name, address, and  
10 telephone number of the company or individual making such  
11 representations. With respect to any distributor whose right to market  
12 has been terminated pursuant to the terms of this Paragraph,  
13 Defendants shall not sell or distribute any covered product to any  
14 such distributor, or accept any orders for any covered product  
15 submitted by or on behalf of any such distributor.

- 16 G. Defendant Sagee shall require distributors to submit to it all  
17 advertising and promotional materials and claims for any covered  
18 product for approval prior to their dissemination and publication.  
19 Defendant Sagee shall not authorize distributors to disseminate these  
20 materials and claims unless such materials and claims are in  
21 compliance with this Modified Order.

## 22 23 **VIII. COMPLIANCE MONITORING**

24 IT IS FURTHER ORDERED that, for the purpose of monitoring and  
25 investigating compliance with any provision of this Modified Order,

- 26 A. Within ten (10) days of receipt of written notice from a representative  
27

1 of the Commission, Defendants each shall submit additional true and  
2 accurate written reports, sworn to under penalty of perjury; produce  
3 documents for inspection and copying; appear for deposition; and/or  
4 provide entry during normal business hours to any business location  
5 in such Defendant's possession or direct or indirect control to inspect  
6 the business operation;

7 B. In addition, the Commission is authorized to monitor compliance and  
8 investigate matters relating to any provision of this Modified Order  
9 by all other lawful means, including but not limited to the following:

- 10 1. obtaining discovery from any person, without further leave of  
11 court, using the procedures prescribed by Fed. R. Civ. P. 30,  
12 31, 33, 34, 36, and 45; and  
13 2. posing as consumers and suppliers to Defendants, their  
14 employees, any other entity managed or controlled in whole or  
15 in part by Defendants, or the employees of such entity, without  
16 the necessity of identification or prior notice.

17 C. Defendants shall permit representatives of the Commission to  
18 interview any employer, consultant, independent contractor,  
19 representative, agent, or employee who has agreed to such an  
20 interview, relating in any way to any conduct subject to this Modified  
21 Order. The person interviewed may have counsel present.

22 Provided, however, that nothing in this Modified Order shall limit the  
23 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of  
24 the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to obtain any documentary material,  
25 tangible things, testimony, or information relevant to unfair or deceptive acts or  
26 practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

1 **IX. COMPLIANCE REPORTING BY DEFENDANTS**

2 IT IS FURTHER ORDERED that, in order that compliance with the  
3 provisions of this Modified Order may be monitored:

4 A. For a period of five (5) years from the date of entry of this Modified  
5 Order,

6 1. Xiao Hua Li shall notify the Commission of the following:

- 7 a. Any changes in his residence, mailing addresses, and  
8 telephone numbers, within ten (10) days of the date of  
9 such change;
- 10 b. Any changes in his employment status (including self-  
11 employment) of and any change in his ownership in any  
12 business entity within ten (10) days of the date of such  
13 change. Such notice shall include the name and address  
14 of each business that Defendant Xiao Hua Li is affiliated  
15 with, employed by, creates or forms, or performs services  
16 for; a statement of the nature of the business; and a  
17 statement of his duties and responsibilities in connection  
18 with the business or employment; and
- 19 c. Any changes in his name or use of any aliases or  
20 fictitious names within ten (10) days of the date of such  
21 change or use; and

22 2. Defendants shall notify the Commission of any changes in the  
23 corporate structure of Defendant Sagee or any business entity  
24 that Defendant Xiao Hua Li directly or indirectly controls or  
25 has an ownership interest in, that may affect compliance  
26 obligations arising under this Modified Order, including but  
27

1 not limited to a dissolution, assignment, sale, merger, or other  
2 action that would result in the emergence of a successor entity;  
3 the creation or dissolution of a subsidiary, parent, or affiliate  
4 that engages in any acts or practices subject to this Modified  
5 Order; the filing of a bankruptcy petition; or a change in the  
6 corporate name or address, at least thirty (30) days prior to such  
7 change, provided that, with respect to any proposed change in  
8 the corporation about which the Defendants learn less than  
9 thirty (30) days prior to the date such action is to take place,  
10 Defendants shall notify the Commission as soon as is  
11 practicable after obtaining such knowledge.

12 B. Sixty (60) days after the date of entry of this Modified Order,  
13 Defendants each shall provide a true and accurate written report to the  
14 Commission, sworn to under penalty of perjury, setting forth in detail  
15 the manner and form in which they have complied and are complying  
16 with this Modified Order. This report shall include, but not be  
17 limited to:

18 1. For Defendant Xiao Hua Li:

- 19 a. His then-current residence address, mailing addresses,  
20 and telephone numbers;
  - 21 b. His then-current employment and business addresses and  
22 telephone numbers, a description of the business  
23 activities of each such employer or business, and the title  
24 and responsibilities of Xiao Hua Li for each such  
25 employer or business; and
  - 26 c. Any other changes required to be reported under
- 27  
28

Paragraph A of this Section; and

2. For all Defendants:

- a. A copy of each acknowledgment of receipt of this Modified Order obtained pursuant to Section XII.
- b. Any other changes required to be reported under Paragraph A of this Section.

C. Sixty (60) days after the date of entry of this Modified Order, Defendants shall provide a copy of all written procedures developed and maintained pursuant to Paragraph F in Section VII.

D. For the purposes of this Modified Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director  
Division of Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue  
Mail Drop NJ-2122  
Washington, D.C. 20580  
Re: **FTC v. Sagee U.S.A. Group, Inc.**

E. For purposes of the compliance reporting and monitoring required by this Modified Order, the Commission is authorized to communicate directly with any Defendant.

## **X. RECORD KEEPING PROVISIONS**

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Modified Order, in connection with any business involved in the advertising, marketing, promotion, offer for sale, distribution, or sale of any covered product, or any other health-related product, operated by any Defendant, or where any Defendant is a majority owner of the business or directly or

1 indirectly manages or controls such a business, Defendants and their agents,  
2 employees, officers, corporations, successors, and assigns, and those persons in  
3 active concert or participation with them who receive actual notice of this  
4 Modified Order by personal service or otherwise, are hereby restrained and  
5 enjoined from failing to create and retain the following records:

- 6       A.     Accounting records that reflect the cost of goods or services sold,  
7               revenues generated, and the disbursement of such revenues;
- 8       B.     Personnel records accurately reflecting: the name, address, and  
9               telephone number of each person employed in any capacity by such  
10              business, including as an independent contractor; that person's job  
11              title or position; the date upon which the person commenced work;  
12              and the date and reason for the person's termination, if applicable;
- 13      C.     Customer files containing the names, addresses, phone numbers,  
14               dollar amounts paid, quantity of items or services purchased, and  
15               description of items or services purchased, to the extent such  
16               information is obtained in the ordinary course of business;
- 17      D.     Complaints and refund requests (whether received directly, indirectly,  
18               or through any third party) and any responses to those complaints or  
19               requests;
- 20      E.     Copies of all sales scripts, training materials, advertisements, or other  
21               marketing materials utilized in the advertising, marketing, promotion,  
22               offering for sale, distribution, or sale of any covered product;
- 23      F.     All records and documents necessary to demonstrate full compliance  
24               with each provision of this Modified Order, including but not limited  
25               to copies of acknowledgments of receipt of this Modified Order  
26               required by Section XII, and all written procedures, reports, or lists



submitted to the Commission pursuant to Sections VII, VIII, and IX;  
and

- G. All materials that were relied upon in making any representations contained in the materials identified in Paragraph X. E, including all documents evidencing or referring to the accuracy of any claim therein or to the efficacy of any covered product, including but not limited to all tests, reports, studies, demonstrations, or other evidence that confirm, contradict, qualify, or call into question the accuracy of any claim about a covered product or the efficacy of such covered product, including complaints and other communications with consumers or with governmental or consumer protection agencies.

#### **XI. DISTRIBUTION OF MODIFIED ORDER BY DEFENDANTS**

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Modified Order, Defendants shall deliver copies of the Modified Order as directed below:

- A. **Defendant Sagee:** Defendant Sagee must deliver a copy of this Modified Order to all of its principals, officers, directors, and managers. Defendant Sagee also must deliver a copy of this Modified Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of this Modified Order. For current personnel, delivery shall be within five (5) days of service of this Modified Order upon Defendants. For new personnel, delivery shall occur prior to them assuming their responsibilities.
- B. **Defendant Xiao Hua Li as Control Person:** For any business that Xiao Hua Li controls, directly or indirectly, or in which Defendant

1 Xiao Hua Li has a majority interest, Defendant Xiao Hua Li must  
2 deliver a copy of this Modified Order to all principals, officers,  
3 directors, and managers of that business. Defendant Xiao Hua Li  
4 must also deliver a copy of this Modified Order to all employees,  
5 agents, and representatives of that business who engage in conduct  
6 related to the subject matter of this Modified Order. For current  
7 personnel, delivery shall be within five (5) days of service of this  
8 Order upon Defendant Xiao Hua Li. For new personnel, delivery  
9 shall occur prior to them assuming their responsibilities.

10 C. **Defendant Xiao Hua Li as employee or non-control person:** For  
11 any business where Defendant Xiao Hua Li is not a controlling  
12 person of a business but otherwise engages in conduct related to the  
13 subject matter of this Order, Defendant Xiao Hua Li must deliver a  
14 copy of this Modified Order to all principals and managers of such  
15 business before engaging in such conduct.

16 D. **All Defendants** must secure a signed and dated statement  
17 acknowledging receipt of the Modified Order, within thirty (30) days  
18 of delivery, from all persons receiving a copy of the Modified Order  
19 pursuant to this Section.  
20

21 **XII. ACKNOWLEDGMENT OF RECEIPT OF MODIFIED ORDER BY**  
22 **DEFENDANTS**

23 IT IS FURTHER ORDERED that each Defendant, within five (5) business  
24 days of receipt of this Modified Order as entered by the Court, must submit to the  
25 Commission a truthful sworn statement acknowledging receipt of this Modified  
26 Order.  
27

7/08 10:21 FAX 202 329 2358

021 030

### XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Modified Order.

STIPULATED AND AGREED TO:  
FOR THE PLAINTIFF FEDERAL TRADE COMMISSION:

Malini Mithal  
MALINI MITHAL  
CAROL J. JENNINGS  
ROBERT S. KAYE  
BARBARA CHUN  
Federal Trade Commission

Dated: 8-7-2006

FOR THE DEFENDANTS:

[Signature]  
Sagee U.S.A. Group, Inc.,  
A California corporation  
By: Xiao Hua Li, President

Dated: 07-10-2006

[Signature]  
Xiao Hua Li, individually

Dated: 07-10-2006

Attorney for Defendants

[Signature]  
Vincent T. Jan  
17800 Castleon Street, Suite 265  
City of Industry, California 91748

Dated: 7-16-2006

IT IS SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2006, at \_\_\_\_

GEORGE F. SCHIAVELLI  
UNITED STATES DISTRICT JUDGE

## ATTACHMENT A

### NOTICE TO DISTRIBUTORS

[To be printed on Sagee U.S.A. Group, Inc.'s letterhead]

[Name and address of recipient]

[Date]

Dear [Distributor's name]:

On July \_\_, 2006, Sagee U.S.A. Group, Inc. ("Sagee USA") and its Chief Executive Officer, Mr. Xiao Hua Li, entered into a settlement with the Federal Trade Commission ("FTC") prohibiting certain advertising claims for covered products, which include dietary supplements such as Sagee and Dia-Cope, as well as foods, drugs, devices, or services. The agreement does not constitute an admission that Sagee USA or Mr. Li has violated any law. As part of the settlement, however, Sagee USA and Mr. Li have agreed to provide this letter to distributors of its products.

In the FTC settlement agreement, Sagee USA and Mr. Li have agreed, among other things, not to:

- represent, expressly or by implication, that any covered product can prevent, mitigate, treat, or cure any disease;
- make any representation, expressly or by implication, about the health benefits, performance, or efficacy of any covered product, unless Sagee USA and Mr. Li possess and rely upon competent and reliable scientific evidence<sup>1</sup> that substantiates the representation; and
- misrepresent the contents, validity, results, conclusions, or interpretations of any test or study.

A copy of the settlement agreement is available from Sagee USA upon request.

Sincerely,

\_\_\_\_\_  
[Name]

[Position at Sagee U.S.A. Group, Inc.]

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<sup>1</sup> "Competent and reliable scientific evidence" means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Anecdotal evidence and consumer testimonials are not considered competent and reliable scientific evidence.